

## House Bill 239 (COMMITTEE SUBSTITUTE)

By: Representatives Efstration of the 104<sup>th</sup> and Fleming of the 121<sup>st</sup>

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to  
2 establish the Georgia Business Court pursuant to the Constitution of this state; to provide for  
3 terms of court and where such court shall sit; to provide for location of proceedings; to  
4 provide for subject matter jurisdiction; to provide for filings, pleadings, and fees; to provide  
5 for a judge of the Georgia Business Court; to establish qualifications; to provide for  
6 appointment and approval of such judge; to provide for terms of office; to provide for salary  
7 and other compensation; to authorize rule making; to provide for the appointment of a clerk  
8 of the Georgia Business Court; to provide for an interim clerk of the Georgia Business Court;  
9 to provide for law assistants and other employees; to amend Code Section 45-7-4 of the  
10 Official Code of Georgia Annotated, relating to general provisions regarding salaries and  
11 fees, so as to designate a salary for the judge of the Georgia Business Court; to amend Title 5  
12 of the Official Code of Georgia Annotated, relating to appeal and error, so as to make  
13 conforming changes regarding appeals; to amend Chapter 4 of Title 9 and Title 23 of the  
14 Official Code of Georgia Annotated, relating to declaratory judgments and equity,  
15 respectively, so as to make conforming changes regarding equity; to provide for related  
16 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

17                   **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18                   **PART I**  
19                   **SECTION 1-1.**

20 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding  
21 a new chapter to read as follows:

22

"CHAPTER 5A23 15-5A-1.

24 There shall be a state-wide business court as provided for in Article VI of the Constitution  
25 of this state to be known as the Georgia Business Court. Nothing in this chapter shall  
26 preclude a superior court from creating a business court division for its circuit or preclude  
27 a state court from creating a business court division, in the manner provided by law.

28 15-5A-2.

29 (a) The terms of court for the Georgia Business Court shall be the same as the terms of  
30 court for the Supreme Court.

31 (b) The Georgia Business Court shall sit at the seat of government in Atlanta and shall  
32 conduct proceedings and trials in locations as provided for in this Code section.

33 (c)(1) All cases before the Georgia Business Court may have pretrial proceedings  
34 conducted at the seat of government or, in the sole discretion of the judge of the Georgia  
35 Business Court to whom the case is assigned, conducted via video, telephone, or other  
36 efficient technological means as may be deemed necessary or useful to conserve the  
37 resources of the parties or the court.

38 (2) At the request of any party to a case, the judge of the Georgia Business Court to  
39 whom the case is assigned may, in his or her sole discretion, conduct any pretrial  
40 proceeding in the county in which the trial of such case shall be conducted pursuant to  
41 the Constitution of this state.

42 (d) The judge of the Georgia Business Court to whom a case is assigned shall preside over  
43 a bench trial unless any party requests a jury trial. If such request is made, the judge of the  
44 Georgia Business Court to whom the case is assigned shall preside over such jury trial.

45 (e) Proper venue in the Georgia Business Court shall be as provided:

46 (1) In Code Section 9-10-93 or 14-2-510 or as otherwise prescribed by law or the  
47 Constitution of this state when initiating a civil action that has not already been filed in  
48 superior court or state court; provided, however, that, if more than one venue is proper,  
49 then the party initiating the civil action in the Georgia Business Court shall select among  
50 the proper venues at the time of filing in the Georgia Business Court;

51 (2) In the pleadings, if proper, that initiated the civil action in superior court or state  
52 court when petitioning the Georgia Business Court for removal or transfer; provided,  
53 however, that, if venue is improper in the pleading that initiated the civil action in  
54 superior court or state court, then venue shall be set by the Judge of the Georgia Business  
55 Court; or

56 (3) By the parties when all parties agree on the proper venue.

57 (f) When the judge of the Georgia Business Court is disqualified to sit in a case or  
58 proceeding pursuant to the Georgia Code of Judicial Conduct or Code Section 15-1-8, such  
59 judge shall order the transfer of the case to another judge of the Georgia Business Court,  
60 if applicable, and if no other judge of the Georgia Business Court may preside over such  
61 case, then the Supreme Court shall order a sitting judge of the Court of Appeals, the  
62 superior court, or the state court to sit by designation as a judge of the Georgia Business  
63 Court. A motion to recuse shall be made in accordance with the rules of the Georgia  
64 Business Court.

65 15-5A-3.

66 (a) Except as provided in subsection (b) of this Code section, pursuant to the process  
67 provided for in Code Section 15-5A-4, the Georgia Business Court shall have authority to:

68 (1) Exercise concurrent jurisdiction and the powers of a court of equity, to the extent that  
69 such powers are exercised:

70 (A) Notwithstanding the amount in controversy, where equity relief is requested in  
71 claims:

72 (i) Arising under Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration  
73 Code';

74 (ii) Arising under Part 2 of Article 1 of Chapter 9 of Title 9, the 'Georgia  
75 International Commercial Arbitration Code,' for which an application may be made  
76 to a court of this state;

77 (iii) Involving securities, including, but not limited to, disputes arising under Chapter  
78 5 of Title 10, the 'Georgia Uniform Securities Act of 2008';

79 (iv) Arising under Title 11, the 'Uniform Commercial Code';

80 (v) Arising under Chapter 2 of Title 14, the 'Georgia Business Corporation Code';

81 (vi) Arising under Chapter 8 of Title 14, the 'Uniform Partnership Act';

82 (vii) Arising under Chapter 9 of Title 14, the 'Georgia Revised Uniform Limited  
83 Partnership Act';

84 (viii) Arising under Chapter 9A of Title 14, the 'Uniform Limited Partnership Act';

85 (ix) Arising under Chapter 11 of Title 14, the 'Georgia Limited Liability Company  
86 Act';

87 (x) That relate to the internal affairs of businesses, including, but not limited to, rights  
88 or obligations between or among business participants regarding the liability or  
89 indemnity of business participants, officers, directors, managers, trustees, or partners;

90 (xi) Arising under federal law over which courts of this state have concurrent  
91 jurisdiction;

92       (xii) Where the complaint includes a professional malpractice claim arising out of a  
93       business dispute;  
94       (xiii) Involving tort claims between or among two or more business entities or  
95       individuals as to their business or investment activities relating to contracts,  
96       transactions, or relationships between or among such entities or individuals;  
97       (xiv) For breach of contract, fraud, or misrepresentation between businesses arising  
98       out of business transactions or relationships;  
99       (xv) Arising from e-commerce agreements; technology licensing agreements,  
100       including, but not limited to, software and biotechnology license agreements; or any  
101       other agreement involving the licensing of any intellectual property right, including,  
102       but not limited to, an agreement relating to patent rights; and  
103       (xvi) Involving commercial real property; and

104       (B) Where damages are the only relief requested the amount in controversy shall be at  
105       least:

106       (i) One million dollars for claims under subparagraph (A) of this paragraph involving  
107       commercial real property; or  
108       (ii) Two hundred and fifty thousand dollars for claims under subparagraph (A) of this  
109       paragraph not involving commercial real property;

110       (2) Have supplemental jurisdiction over all pending claims that are so related to the  
111       claims in cases provided for under paragraph (1) of this subsection that such pending  
112       claims form part of the same case or controversy;

113       (3) Punish contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding  
114       20 days, or both; and

115       (4) Exercise such other powers, not contrary to the Constitution, as are or may be given  
116       to such a court by law.

117       (b) The Georgia Business Court shall not have authority to exercise jurisdiction over  
118       claims involving:

119       (1) Physical injury inflicted upon the body of a person or death;  
120       (2) Mental or emotional injury inflicted upon a person;  
121       (3) Residential landlord and tenant disputes; or  
122       (4) Foreclosures.

123       15-5A-4.

124       (a) Except as provided in subsection (b) of this Code section, all claims provided for under  
125       Code Section 15-5A-3 may only come before the Georgia Business Court by:

126       (1) Any party filing a pleading with the Georgia Business Court to initiate a civil action  
127       that is not already pending in superior court or state court;

128 (2) All parties to a civil action already filed in superior court or state court agreeing to  
129 remove the action to the Georgia Business Court and then filing such agreement with the  
130 Georgia Business Court, provided that the petition for removal is filed within 60 days of  
131 such action being filed in superior court or state court; or

132 (3) Any party to a civil action already filed in superior court or state court filing with the  
133 Georgia Business Court a petition to transfer such action to the Georgia Business Court:

134 (A) Within 60 days after receipt by all defendants, through service of process as  
135 provided in Code Section 9-11-4, of a copy of the initial pleadings setting forth the  
136 claim for relief upon which such action is based and the judge of the Georgia Business  
137 Court, after considering the petition to transfer and all timely responses from the other  
138 party or parties in the case as provided for in the rules of the Georgia Business Court,  
139 finds by written order that the case is within the authority of the Georgia Business Court  
140 pursuant to Code Section 15-5A-3 and upon such finding compels transfer of the case  
141 to the Georgia Business Court; or

142 (B) Within 60 days after receipt by all defendants, through service of process as  
143 provided in Code Section 9-11-4 or otherwise, of a copy of an amended pleading,  
144 motion, order, or other document from which the party petitioning for transfer may first  
145 ascertain that the case is transferable and the judge of the Georgia Business Court, after  
146 considering the petition to transfer and all timely responses from the other party or  
147 parties in the case as provided for in the rules of the Georgia Business Court, finds by  
148 written order that the case is within the authority of the Georgia Business Court  
149 pursuant to Code Section 15-5A-3 and upon such finding compels transfer of the case  
150 to the Georgia Business Court.

151 (b) The Georgia Business Court may transfer to the appropriate superior court or state  
152 court any and all claims filed in the Georgia Business Court and may reject acceptance of  
153 any and all petitions to transfer or petitions for removal to the Georgia Business Court,  
154 even if such claims are within the jurisdiction of the Georgia Business Court.

155 (c) Notwithstanding any other law, when the superior court or state court where a claim  
156 is pending receives a certified copy of an order issued by the Georgia Business Court  
157 transferring or removing such civil action to the Georgia Business Court pursuant to  
158 paragraph (2) or (3) of subsection (a) of this Code section, such superior court or state court  
159 shall certify the transfer or removal from the superior court or state court to the Georgia  
160 Business Court.

161 15-5A-5.

162 (a) The fee for filing a case with, or having a case transferred or removed to, the Georgia  
163 Business Court shall be \$5,000.00, to be paid by:

164 (1) The party or parties filing the action in, or seeking transfer to, the Georgia Business  
165 Court under paragraph (1) or (3) of subsection (a) of Code Section 15-5A-4; or

166 (2) An equal allocation across all parties to an agreement seeking removal of the case to  
167 the Georgia Business Court under paragraph (2) of subsection (a) of Code Section  
168 15-5A-4.

169 (b) All fees collected by the clerk of the Georgia Business Court pursuant to this Code  
170 section shall be the property of the state and the same shall be paid into the state treasury.

171 15-5A-6.

172 (a) The Georgia Business Court shall consist of one judge and one division.

173 (b) The court shall commence operations on January 1, 2020, and may commence  
174 accepting cases on August 1, 2020.

175 (c) No individual shall be a judge of the Georgia Business Court unless, at the time of his  
176 or her appointment, he or she has:

177 (1) Been a resident of this state and a citizen of the United States for at least seven years;

178 (2) Been admitted to practice law in this state for at least seven years; and

179 (3) At least 15 years of legal experience as an attorney or judge in complex business  
180 litigation, which experience shall be presumed by law as being met by virtue of  
181 appointment and approval under Code Section 15-5A-7.

182 15-5A-7.

183 (a) The judge of the Georgia Business Court shall be appointed by the Governor, subject  
184 to approval by a majority vote of the Senate Judiciary Committee and a majority vote of  
185 the House Committee on Judiciary. The Senate Judiciary Committee and the House  
186 Committee on Judiciary shall be authorized to meet jointly or separately, while in or out  
187 of a legislative session, as called in the discretion of each such chairperson, with notice  
188 provided by the chairpersons to such committee members, to consider the approval of such  
189 appointment.

190 (b)(1) The initial judge of the Georgia Business Court shall be appointed by July 1, 2019,  
191 and approved by December 31, 2019, or within three months of the Governor's  
192 appointment, whichever is later, and the judge shall serve an initial term beginning on  
193 August 1, 2020.

194 (2) Beginning on January 1, 2020, such initial judge may perform the administrative  
195 duties required for establishing the Georgia Business Court and, if so, shall receive  
196 compensation as a judge of the Georgia Business Court beginning on such date and for  
197 such purposes.

198       (3)(A) The judge of the Georgia Business Court shall serve for a term of five years and  
199       may be reappointed for any number of consecutive terms so long as he or she meets the  
200       qualifications of appointment at the time of each appointment and shall be reappointed  
201       and reapproved in the same manner as provided for in subsection (a) of this Code  
202       section.

203       (B) Vacancies in the office of judge of the Georgia Business Court shall be filled by  
204       appointment and approval in the same manner as provided for in subsection (a) of this  
205       Code section.

206       (4) The judge of the Georgia Business Court shall be deemed to serve the geographical  
207       area of this state.

208       15-5A-8.

209       Before entering on the duties of his or her office, the judge of the Georgia Business Court  
210       shall take the oath required of all civil officers in addition to the following oath:

211       'I swear that I will administer justice without respect to person and do equal rights to the  
212       poor and the rich and that I will faithfully and impartially discharge and perform all the  
213       duties incumbent on me as judge of the Georgia Business Court, according to the best of  
214       my ability and understanding, and agreeably to the laws and Constitution of this state and  
215       the Constitution of the United States. So help me God.'

216       15-5A-9.

217       (a)(1) The annual salary of the judge of the Georgia Business Court shall be as specified  
218       in Code Section 45-7-4. Such salary shall be paid in equal monthly installments.

219       (2) The judge of the Georgia Business Court shall receive expenses and allowances as  
220       provided for in Code Section 45-7-20. If the judge resides 50 miles or more from the seat  
221       of government in Atlanta, such judge shall also receive a mileage allowance for the use  
222       of a personal motor vehicle when devoted to official business as provided for in Code  
223       Section 50-19-7, for not more than one round trip per calendar week to and from the  
224       judge's residence and the seat of government in Atlanta by the most practical route,  
225       during each regular and extraordinary session of court. In the event the judge travels by  
226       public carrier for any part of a round trip as provided above, such judge shall receive a  
227       travel allowance of actual transportation costs for each such part in lieu of the mileage  
228       allowance. Transportation costs incurred by the judge for air travel to and from the  
229       judge's residence to the seat of government in Atlanta shall be reimbursed only to the  
230       extent that such costs do not exceed the cost of travel by personal motor vehicle. All  
231       allowances provided for in this paragraph shall be paid upon the submission of proper  
232       vouchers.

233 (3) If the judge resides 50 miles or more from the seat of government in Atlanta, such  
234 judge shall also receive the same daily expense allowance as members of the General  
235 Assembly receive, as set forth in Code Section 28-1-8, for not more than 35 days during  
236 each term of court. Such days shall be utilized only when official court business is being  
237 conducted. All allowances provided for in this paragraph shall be paid upon the  
238 submission of proper vouchers.

239 (b) The salary provided for in subsection (a) of this Code section shall be the total  
240 compensation to be paid by the state to the judge of the Georgia Business Court and shall  
241 be in lieu of any and all other amounts to be paid from state funds.

242 15-5A-10.

243 (a) The judge of the Georgia Business Court shall have responsibility for creating and,  
244 when needed, making revisions to the rules of the Georgia Business Court and submitting  
245 such rules and revisions to the Supreme Court for approval prior to such rules or revisions  
246 taking effect; provided, however, that such rules shall conform to Chapter 11 of Title 9, the  
247 'Georgia Civil Practice Act,' where related and applicable.

248 (b) The judge of the Georgia Business Court is authorized to empanel a commission of up  
249 to eight individuals, who may be judges, to assist the judge in the creation or revision of  
250 such rules; provided, however, that such individuals shall not receive compensation for  
251 being empaneled but may receive a daily expense allowance and travel cost reimbursement  
252 in the amount specified in Code Section 45-7-21.

253 (c) Such rules may include a matrix or guidelines for the acceptance of cases by the  
254 Georgia Business Court, including, but not limited to, such factors as the amount in  
255 controversy, the existence of novel or complex legal issues, and anticipated discovery  
256 issues needing the intervention of the Georgia Business Court.

257 (d) Such rules shall include guidelines and procedures for the filing of pleadings, petitions,  
258 motions, and all other documents, electronically or otherwise, with the Georgia Business  
259 Court.

260 15-5A-11.

261 (a) There shall be a clerk of the Georgia Business Court. Such clerk shall be appointed by  
262 the Governor, subject to approval by a majority vote of the Senate Judiciary Committee and  
263 a majority vote of the House Committee on Judiciary. The Senate Judiciary Committee  
264 and the House Committee on Judiciary shall be authorized to meet jointly or separately,  
265 while in or out of a legislative session, as called in the discretion of each such chairperson,  
266 with notice provided by the chairpersons to such committee members, to consider the  
267 approval of such appointment.

268 (b)(1) The initial clerk of the Georgia Business Court shall be appointed and approved  
269 by July 31, 2020, and shall serve an initial term beginning on August 1, 2020.

270 (2)(A) The clerk of the Georgia Business Court shall serve for a term of five years and  
271 may be reappointed for any number of consecutive terms and shall be reappointed and  
272 reapproved in the same manner as provided for in subsection (a) of this Code section.

273 (B) Vacancies in the office of clerk of the Georgia Business Court shall be filled by  
274 appointment of the Governor in the same manner as provided for in subsection (a) of  
275 this Code section.

276 (c) The judge of the Georgia Business Court is authorized to fix the annual compensation  
277 of the clerk in the form of a salary and expenses, provided that such compensation shall be  
278 within the amount appropriated by the General Assembly for such purposes.

279 15-5A-12.

280 (a) The offices of the judge and clerk of the Georgia Business Court shall sit at the seat of  
281 government in Atlanta pursuant to subsection (b) of Code Section 15-5A-2.

282 (b) The judge of the Georgia Business Court, in coordination with the clerk of the Georgia  
283 Business Court, shall be responsible for designating an electronic filing system.

284 15-5A-13.

285 (a) The judge of the Georgia Business Court shall be authorized to appoint law assistants  
286 for the use of the court and to remove them at pleasure. Each law assistant of the Georgia  
287 Business Court shall have been admitted to the bar of this state as a practicing attorney;  
288 provided, however, that an individual who graduated from law school but who is not a  
289 member of the bar of this state may be appointed as a law assistant so long as he or she is  
290 admitted to the bar of this state within one year of such appointment.

291 (b) It shall be the duty of a law assistant to attend all sessions of the court, if so ordered,  
292 and generally to perform the duties incident to the role of law assistant.

293 15-5A-14.

294 The judge of the Georgia Business Court may employ and fix the salaries of stenographers,  
295 clerical assistants, and such other employees as may be deemed necessary by the court; and  
296 the salaries therefor shall be paid by the clerk from the amount appropriated by the General  
297 Assembly for such purposes.

298 15-5A-15.

299 The Georgia Business Court shall purchase such books, pamphlets, or other publications,  
300 whether in hard copy or digital format, and such other supplies and services as the judge

301 of the Georgia Business Court may deem necessary. The costs thereof shall be paid by the  
302 clerk out of the amount appropriated by the General Assembly for such purposes.

303 15-5A-16.

304 The Georgia Business Court shall be a budget unit as defined in Part 1 of Article 4 of  
305 Chapter 12 of Title 45, the 'Budget Act'; provided, however, that the Georgia Business  
306 Court shall be assigned for administrative purposes only to the Court of Appeals."

307 **SECTION 1-2.**

308 Code Section 45-7-4 of the Official Code of Georgia Annotated, relating to general  
309 provisions regarding salaries and fees, is amended by adding a new paragraph to subsection  
310 (a) to read as follows:

311 "(19.1) Judge of the Georgia Business Court ..... 174,500.00"

312 **PART II**

313 **SECTION 2-1.**

314 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended  
315 by revising Code Section 5-5-1, relating to power of probate, superior, state, juvenile, and  
316 City of Atlanta courts, as follows:

317 "5-5-1.

318 (a) The superior, state, and juvenile courts, the Georgia Business Court, and the City Court  
319 of Atlanta shall have power to correct errors and grant new trials in cases or collateral  
320 issues in any of the respective courts in such manner and under such rules as they may  
321 establish according to law and the usages and customs of courts.

322 (b) Probate courts shall have power to correct errors and grant new trials in civil cases  
323 provided for by Article 6 of Chapter 9 of Title 15 under such rules and procedures as apply  
324 to the superior courts."

325 **SECTION 2-2.**

326 Said title is further amended by revising Code Section 5-6-33, relating to right of appeal  
327 generally, as follows:

328 "5-6-33.

329 (a)(1) Either party in any civil case and the defendant in any criminal proceeding in the  
330 superior, state, or city courts, or in the Georgia Business Court, may appeal from any  
331 sentence, judgment, decision, or decree of the court, or of the judge thereof in any matter  
332 heard at chambers.

333 (2) Either party in any civil case in the probate courts provided for by Article 6 of  
334 Chapter 9 of Title 15 may appeal from any judgment, decision, or decree of the court, or  
335 of the judge thereof in any matter heard at chambers.  
336 (b) This Code section shall not affect Chapter 7 of this title."

337 **SECTION 2-3.**

338 Said title is further amended by revising subsection (a) of Code Section 5-6-34, relating to  
339 judgments and rulings deemed directly appealable, procedure for review of judgments,  
340 orders, or decisions not subject to direct appeal, scope of review, hearings in criminal cases  
341 involving a capital offense for which death penalty is sought, and appeals involving  
342 nonmonetary judgments in child custody cases, as follows:

343 "(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the  
344 following judgments and rulings of the superior courts, the Georgia Business Court, the  
345 constitutional city courts, and such other courts or tribunals from which appeals are  
346 authorized by the Constitution and laws of this state:

- 347 (1) All final judgments, that is to say, where the case is no longer pending in the court  
348 below, except as provided in Code Section 5-6-35;
- 349 (2) All judgments involving applications for discharge in bail trover and contempt cases;
- 350 (3) All judgments or orders directing that an accounting be had;
- 351 (4) All judgments or orders granting or refusing applications for receivers or for  
352 interlocutory or final injunctions;
- 353 (5) All judgments or orders granting or refusing applications for attachment against  
354 fraudulent debtors;
- 355 (6) Any ruling on a motion which would be dispositive if granted with respect to a  
356 defense that the action is barred by Code Section 16-11-173;
- 357 (7) All judgments or orders granting or refusing to grant mandamus or any other  
358 extraordinary remedy, except with respect to temporary restraining orders;
- 359 (8) All judgments or orders refusing applications for dissolution of corporations created  
360 by the superior courts;
- 361 (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a  
362 will;
- 363 (10) All judgments or orders entered pursuant to subsection (c) of Code Section  
364 17-10-6.2;
- 365 (11) All judgments or orders in child custody cases awarding, refusing to change, or  
366 modifying child custody or holding or declining to hold persons in contempt of such child  
367 custody judgment or orders;
- 368 (12) All judgments or orders entered pursuant to Code Section 35-3-37; and

369 (13) All judgments or orders entered pursuant to Code Section 9-11-11.1."

370 **SECTION 2-4.**

371 Said title is further amended by revising paragraphs (11) and (12) of and adding a new  
372 paragraph to subsection (a) of Code Section 5-6-35, relating to cases requiring application  
373 for appeal, requirements for application, exhibits, response, issuance of appellate court order  
374 regarding appeal, procedure, supersedeas, jurisdiction of appeal, and appeals involving  
375 nonmonetary judgments in custody cases, to read as follows:

376 "(11) Appeals from decisions of the state courts reviewing decisions of the magistrate  
377 courts by de novo proceedings so long as the subject matter is not otherwise subject to  
378 a right of direct appeal; and

379 (12) Appeals from orders terminating parental rights; and

380 (13) Appeals from orders and decisions of the Georgia Business Court."

381 **SECTION 2-5.**

382 Said title is further amended by revising subsection (c) of Code Section 5-6-41, relating to  
383 reporting, preparation, and disposition of transcript, correction of omissions or  
384 misstatements, preparation of transcript from recollections, filing of disallowed papers, filing  
385 of stipulations in lieu of transcript, and reporting at party's expense, as follows:

386 "(c) In all civil cases tried in the superior and city courts, in the Georgia Business Court,  
387 and in any other court, the judgments of which are subject to review by the Supreme Court  
388 or the Court of Appeals, the trial judge thereof may require the parties to have the  
389 proceedings and evidence reported by a court reporter, the costs thereof to be borne equally  
390 between them; and, where an appeal is taken which draws in question the transcript of the  
391 evidence and proceedings, it shall be the duty of the appellant to have the transcript  
392 prepared at the appellant's expense. Where it is determined that the parties, or either of  
393 them, are financially unable to pay the costs of reporting or transcribing, the judge may, in  
394 the judge's discretion, authorize trial of the case unreported; and, when it becomes  
395 necessary for a transcript of the evidence and proceedings to be prepared, it shall be the  
396 duty of the moving party to prepare the transcript from recollection or otherwise."

397 **PART III**

398 **SECTION 3-1.**

399 Chapter 4 of Title 9 of the Official Code of Georgia Annotated, relating to declaratory  
400 judgments, is amended by revising Code Section 9-4-2, relating to declaratory judgments  
401 authorized and force and effect, as follows:

402 "9-4-2.

403 (a) In cases of actual controversy, the respective superior courts of this state and the  
404 Georgia Business Court shall have power, upon petition or other appropriate pleading, to  
405 declare rights and other legal relations of any interested party petitioning for such  
406 declaration, whether or not further relief is or could be prayed; and the declaration shall  
407 have the force and effect of a final judgment or decree and be reviewable as such.

408 (b) In addition to the cases specified in subsection (a) of this Code section, the respective  
409 superior courts of this state and the Georgia Business Court shall have power, upon petition  
410 or other appropriate pleading, to declare rights and other legal relations of any interested  
411 party petitioning for the declaration, whether or not further relief is or could be prayed, in  
412 any civil case in which it appears to the court that the ends of justice require that the  
413 declaration should be made; and the declaration shall have the force and effect of a final  
414 judgment or decree and be reviewable as such.

415 (c) Relief by declaratory judgment shall be available, notwithstanding the fact that the  
416 complaining party has any other adequate legal or equitable remedy or remedies."

417 **SECTION 3-2.**

418 Said chapter is further amended by revising Code Section 9-4-5, relating to filing and service,  
419 time of trial, and drawing of jury, as follows:

420 "9-4-5.

421 A proceeding instituted under this chapter shall be filed and served as are other cases in the  
422 superior courts of this state or in the Georgia Business Court and may be tried at any time  
423 designated by the court not earlier than 20 days after the service thereof, unless the parties  
424 consent in writing to an earlier trial. If there is an issue of fact which requires a submission  
425 to a jury, the jury may be drawn, summoned, and sworn either in regular term or specially  
426 for the pending case."

427 **SECTION 3-3.**

428 Said chapter is further amended by revising Code Section 9-4-10, relating to equity  
429 jurisdiction not impaired, as follows:

430 "9-4-10.

431 Nothing in this chapter is intended to impair the equity jurisdiction of the superior courts  
432 of the state or of the Georgia Business Court.

433 **SECTION 3-4.**

434 Title 23 of the Official Code of Georgia Annotated, relating to equity, is amended by revising  
435 Code Section 23-1-1, relating to equity jurisdiction – vested in superior courts, as follows:

436 "23-1-1.

437 All equity jurisdiction shall be vested in the superior courts of the several counties and in  
438 the Georgia Business Court as provided in Code Section 15-5A-3."

439 **SECTION 3-5.**

440 Said title is further amended by revising Code Section 23-4-3, relating to claim of legal and  
441 equitable relief by defendant, as follows:

442 "23-4-3.

443 A defendant to any action in the superior court or in the Georgia Business Court, whether  
444 the action is for legal or equitable relief, may claim legal or equitable relief, or both, by  
445 framing proper pleadings for that purpose and sustaining them by sufficient evidence."

446 **SECTION 3-6.**

447 Said title is further amended by revising Code Section 23-4-33, relating to decree in will or  
448 contract matters and consent of guardian or guardian ad litem, as follows:

449 "23-4-33.

450 When it becomes impossible to carry out any last will and testament in whole or in part,  
451 and in all matters of contract, the judges of the superior courts, and the judge of the Georgia  
452 Business Court in matters of contract only, shall have power to render any decree that may  
453 be necessary and legal, provided that all parties in interest shall consent thereto in writing  
454 and there shall be no issue as to the facts or, if there is such an issue, that there shall be a  
455 like consent in writing that the judge presiding may hear and determine such facts, subject  
456 to a review on appeal, as in other cases. In all cases where minors are interested, the  
457 consent of the guardian at law or the guardian ad litem shall be obtained before the decree  
458 is rendered."

459 **SECTION 3-7.**

460 Said title is further amended by revising Code Section 23-4-37, relating to attachments for  
461 contempt and executions against property, as follows:

462 "23-4-37.

463 Every decree or order of a superior court or the Georgia Business Court in equitable  
464 proceedings may be enforced by attachment against the person for contempt. Decrees for  
465 money may be enforced by execution against the property. If a decree is partly for money  
466 and partly for the performance of a duty, the former may be enforced by execution and the  
467 latter by attachment or other process."

468

**PART IV**

469

**SECTION 4-1.**

470 This Act shall become effective upon approval of this Act by the Governor or upon its  
471 becoming law without such approval.

472

**SECTION 4-2.**

473 All laws and parts of laws in conflict with this Act are repealed.